

QUINN EMANUEL URQUHART & SULLIVAN, LLP

Charles K. Verhoeven (Bar No. 170151)
charlesverhoeven@quinnemanuel.com

David A. Perlson (Bar No. 209502)
davidperlson@quinnemanuel.com

50 California Street, 22nd Floor
San Francisco, California 94111

Telephone: (415) 875-6600
Facsimile: (415) 875-6700

Kevin P.B. Johnson (Bar No. 177129)

kevinjohnson@quinnemanuel.com

Victoria F. Maroulis (Bar No. 202603)

victoriamaroulis@quinnemanuel.com

555 Twin Dolphin Drive, 5th Floor

Redwood Shores, California 94065-2139

Telephone: (650) 801-5000

Facsimile: (650) 801-5100

Attorneys for Samsung Electronics Co., Ltd.,
Samsung Electronics America, Inc., and
Samsung Research America, Inc.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

HUAWEI TECHNOLOGIES CO., LTD., et al.,

Plaintiffs,

v.

SAMSUNG ELECTRONICS CO., LTD., et al.,

Defendants.

SAMSUNG ELECTRONICS CO., LTD. &
SAMSUNG ELECTRONICS AMERICA, INC.

Counterclaim-Plaintiffs,

v.

HUAWEI TECHNOLOGIES CO., LTD.,
HUAWEI DEVICE USA, INC., HUAWEI
TECHNOLOGIES USA, INC., & HISILICON
TECHNOLOGIES CO., LTD.

Counterclaim-Defendants.

CASE NO. 16-cv-02787-WHO

**SAMSUNG'S ADMINISTRATIVE
MOTION TO FILE UNDER SEAL
PORTIONS OF SAMSUNG'S
MOTION FOR JUDGMENT ON THE
PLEADINGS REGARDING
HUAWEI'S CAUSE OF ACTION
FOR DECLARATORY JUDGMENT
OF FRAND TERMS AND
CONDITIONS FOR A CROSS-
LICENSE**

Pursuant to Civil L.R. 7-11 and 79-5, Defendants and Counterclaim-Plaintiffs Samsung Electronics Co., Ltd. and Samsung Electronics America, Inc., and Defendant Samsung Research America, Inc. (collectively “Samsung”) bring this administrative motion to file under seal limited portions of Samsung’s Motion for Judgment on the Pleadings Regarding Huawei’s Cause of Action for Declaratory Judgment of FRAND Terms and Conditions for a Cross-License (“Motion”). Samsung certifies that it has reviewed and complied with Judge Orrick’s Standing Order on Administrative Motions to File Under Seal, as well as Civil L.R. 79-5.

Samsung requests an order granting its motion to file under seal the materials in the following table:

Document	Portions to be Filed Under Seal	Party Claiming Confidentiality	Basis for Sealing
Motion	Yellow highlighted portions on lines: 2:20-21 3:15-25-4:1 4:2-3 4:n.5 4:n.6 5:n.13 7:19-22 9:15-20 10:2-3 10:3-8 13:21 13:22-23 13:24-14:1	Huawei	Declaration of Mark Gray in Support of the Administrative Motion to File Under Seal (“Gray Decl.”) ¶ 10
Motion	Blue highlighted portions on lines: 2:22 4:10-11 4:n.5 13:19-20	Samsung	Gray Decl. ¶¶ 4, 7

Document	Portions to be Filed Under Seal	Party Claiming Confidentiality	Basis for Sealing
Motion	Green highlighted portions on lines: 1:9-10 1:10-11 1:13-14 2:5-6 2:23 2:24-3:1 3:6-7 3:12-13 4:4-5 4:6-7 4:7-8 4:9 4:11-12 4:n.5 5:1-2 5:3-4 5:5-6 5:6-7 10:8-9 10:23-24 10:26 13:18 14:2-3 14:4-5	Huawei, Samsung	Gray Decl. ¶¶ 6-7
Exhibit 1	Entire document	Huawei	Gray Decl. ¶ 10
Exhibit 2	Entire document	Samsung	Gray Decl. ¶¶ 4, 7
Exhibit 3	Entire document	Huawei	Gray Decl. ¶ 10
Exhibit 4	Entire document	Huawei	Gray Decl. ¶ 10
Exhibit 5	Entire document	Samsung	Gray Decl. ¶¶ 4, 7
Exhibit 6	Entire document	Huawei	Gray Decl. ¶ 10

Document	Portions to be Filed Under Seal	Party Claiming Confidentiality	Basis for Sealing
Exhibit 7	Entire document	Huawei, Samsung	Gray Decl. ¶¶ 6-7
Exhibit 8	Entire document	Huawei, Samsung	Gray Decl. ¶¶ 6-7
Exhibit 9	Entire document	Huawei, Samsung	Gray Decl. ¶¶ 6-7
Exhibit 10	Entire document	Huawei, Samsung	Gray Decl. ¶¶ 6-7
Exhibit 11	Entire document	Huawei, Samsung	Gray Decl. ¶¶ 6-7
Exhibit 12	Entire document	Huawei	Gray Decl. ¶ 10

For the convenience of the Court, material in Samsung's motion over which Huawei maintains a claim of confidentiality is highlighted in yellow, material over which Samsung maintains a claim of confidentiality is highlighted in blue, and material over which both Huawei and Samsung maintain a claim of confidentiality is highlighted in green.

Dispositive motions and related materials may be sealed in the 9th Circuit upon a showing that there are "compelling reasons" to seal the information. *See Kamakana v. City & Cty. of Honolulu*, 447 F.3d 1172, 1178-79 (9th Cir. 2006). A party has "compelling reasons" to seal information in a filing when disclosure of that information would "release trade secrets," *Kamakana*, 447 F.3d at 1179, or when the material would disclose "sources of business information that might harm a litigant's competitive standing." *Nixon v. Warner Commc'ns, Inc.*, 435 U.S. 589, 598 (1978). In this District, Civil L.R. 79-5(b) requires that the party moving to seal "establish[] that the document, or portions thereof, are privileged, protectable as a trade secret or otherwise entitled to protection under the law" and that the corresponding motion to seal "be narrowly tailored to seek sealing only of sealable material."

Samsung seeks to seal two categories of information: (1) information about the parties' negotiations positions, correspondence, and strategy, which this Court has already held are sealable under the "compelling reasons" standard, *see* Dkt. 270 at 3 (granting sealing because "information regarding [parties'] license negotiations" discloses "sources of business information that might harm a litigant's competitive standing"), and (2) material that Huawei has designated Highly Confidential – Attorneys' Eyes Only pursuant to the protective order. Public disclosure of the first category of information would harm Samsung's competitive standing by giving

1 asymmetrical information about Samsung's licensing strategies to other business entities. *See*
2 Gray Decl. ¶¶ 4-5 Huawei may also claim confidentiality over its negotiating strategies and
3 positions for similar reasons. Samsung expects that Huawei will file declarations supporting
4 sealing of its negotiating positions and information, as well as discovery it has asserted is highly
5 confidential. Samsung therefore respectfully requests that the Court order sealed the materials
6 identified above.

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8 DATED: June 8, 2018

Respectfully submitted,

9 QUINN EMANUEL URQUHART &
10 SULLIVAN, LLP

11 By /s/ Victoria F. Maroulis

12 Charles K. Verhoeven

13 Kevin P.B. Johnson

14 Victoria F. Maroulis

15 Thomas D. Pease

16 David A. Perlson

17 *Attorneys for Samsung Electronics Co., Ltd.,*
18 *Samsung Electronics America, Inc., and*
19 *Samsung Research America, Inc.*
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